

## **TITLE 14. FISH AND GAME COMMISSION**

### **Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 203, 203.1, 331, 332, 1050, 1572, 3452, 3453, 4005, 4009.5, 4751, 4902 and 10502 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 331, 332, 460, 713, 1050, 1570-1572, 1801, 3452, 3453, 3800, 3950, 3951, 4005, 4009.5, 4330-4333, 4336, 4751, 4756, 4800-4805, 4902, 10500 and 10502 of said Code, has open to public review its regulations in Division 1, Title 14, California Code of Regulations, Part 2, Chapter 1, General Provisions and Definitions; Chapter 2, Resident Small Game; Chapter 3, Big Game; Chapter 4, Depredation; Chapter 5, Furbearing Mammals; and Chapter 6, Nongame Animals.

Pursuant to the provisions of sections 203 and 203.1 of the Fish and Game Code, the Fish and Game Commission will consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony in adopting season, bag and possession limits, and areas of take, and prescribe the manner and means of taking as part of the 2004-2007 Mammal Hunting and Trapping Regulations.

At the Fish and Game Commission's meeting on February 6, 2004, the Department of Fish and Game made the following recommendations for changes relative to game mammal, furbearer and nongame mammal regulations for the 2004-2007 seasons: proposes to amend sections 251, 353, 354, 360, 361, 362, 363, 364, 365, 465, 465.5, 467, 475, 478 and 601, and add sections 458.1, 459, 459.1, 450.2, 465.6 and 468, Title 14, California Code of Regulations, to make tag quota changes, clarifications, and urgency changes for the 2004-2007 Mammal Hunting and Trapping Regulations.

#### **Informative Digests/Policy Statement Overview**

##### **Amend Section 251, Title 14, CCR, Re: Use of Aircraft to Take Game**

Subsection 251 (a) currently states, in general terms, that aircraft may not be used to pursue, drive, herd, or take birds and mammals. However, the section does not adequately address the issue of "fair chase" as it relates to use of aircraft for hunting big game. Information indicates aircraft such as ultra-light personal aircraft have been used to locate or attempt to locate deer and bighorn sheep. The location of big game can then be used to actively hunt the targeted animal. Nevada, Arizona and Utah already have regulations addressing this problem. This methodology may place targeted animal(s) in a situation that is beyond traditional fair chase. Aircraft could establish the location of big game when traditional fair chase methods may fail. This puts additional pressure on targeted animals and constituents using traditional hunting methods could be placed at a disadvantage. Use of aircraft to pursue big game could discredit the sport of hunting. The amendment would further restrict the use of aircraft as it pertains to the take of big game by disallowing the locating of big game by aircraft 48 hours before until 48 hours after a big game hunting season. The amendment also addresses advances in technology by restricting the use of imaging satellite information and software/equipment which could hack /utilize Department telemetry frequencies with the possible result of locating big game mammals wearing Department telemetry equipment.

##### **Amend Section 353, Title 14, CCR, Re: Methods Authorized for Taking Big Game**

The existing regulations provide for methods to be used to take big game. In recent years, new technology has resulted in new types of muzzleloading rifles, types of muzzleloading powders and advanced sighting methods. The existing regulations do not clearly address these new technologies including advances in muzzleloading rifle types, ignition sources, powders, and advanced sighting devices . This has caused difficulty for hunters and law enforcement personnel when trying to determine lawful and illegal methods of taking big game. The proposed regulation change clarifies the new types of

muzzleloading rifles, types of muzzleloading powders and advanced sighting methods which are legal for taking big game. The proposed change will reduce confusion by hunters and law enforcement personnel who need clear definitions of which of the new technologies are legal and which are not for the purpose of taking big game.

The Department has received numerous requests from disabled hunters to allow the use of cross bows and/or other devices to assist in drawing and holding the bow string (for example, mouth-tab, body-brace, and draw-loc) during the archery only and additional archery hunt seasons as a reasonable accommodation under the Americans with Disabilities Act of 1990 (ADA). Based on information currently available, the Department does not believe that allowing use of cross bows or the other devices identified above for accommodation purposes during the archery only and additional hunt archery seasons will cause any fundamental changes to the operation of the Department's Wildlife Programs. The proposed regulation change would allow disabled archers that have, and can provide upon request by law enforcement personnel, written medical documentation attesting to their inability to use conventional archery equipment to use a cross-bow and/or the other devices identified above during the archery only season and/or during the special archery hunts.

#### **Amend Section 354, Title 14, CCR, Re: Archery Equipment and Crossbow Regulations**

The proposed regulation change eliminates the conflict between subsection 353(g) and 354(h) by making an exception in 354(h) to allow the use of a muzzleloading rifle during hunts designated as muzzleloading rifle/archery hunts. The existing regulations specify that archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag. While subsection 354(g) specifies that hunters who possess a muzzleloading rifle/archery tag may possess a muzzleloading rifle. The proposed change will eliminate this conflict in regulations and reduce confusion by hunters and law enforcement personnel.

The Department has received numerous requests from disabled hunters to allow the use of cross bows and/or other devices to assist in drawing and holding the bow string (for example, mouth-tab, body-brace, and draw-loc) under the conditions of an archery tag, archery season, or general season as a reasonable accommodation under the Americans with Disabilities Act of 1990 (ADA). Based on information currently available, the Department does not believe that allowing use of cross bows or the other devices identified above for accommodation purposes during the archery only and additional hunt archery seasons will cause any fundamental changes to the operation of the Department's Wildlife Programs. The proposed regulation change would allow disabled archers that have, and can provide upon request by law enforcement personnel, written medical documentation attesting to their inability to use conventional archery equipment to use a cross-bow and/or the other devices identified above during the archery only season and/or during the special archery hunts.

#### **Amend Subsection 360(a), Title 14, CCR, Re: Deer: A, B, C and D Zone Hunts**

Existing regulations provide an area description, season and tag quota for Zone A. However, under current Deer Assessment Unit (DAU) management strategies, Zone A is divided into two distinct DAUs: the south A Zone (DAU 1-Unit 110) and the north A Zone (DAU 2-Unit 160). For management purposes, it is necessary to split Zone A along DAU boundaries, to allow for the more effective collection of harvest and herd data. The proposal will split Zone A into two distinct units; the Zone A-South Unit 110 and Zone A-North Unit 160, and provide clarification of season and valid hunting areas. Hunters will still purchase a single A Zone tag, however they will need to indicate the appropriate unit in which the deer was harvested. The tag will be valid in both units and no reduction in hunter opportunity will occur.

Some minor editorial changes are necessary for consistency in subsection numbering, spelling, grammar, and clarification.

Existing regulations provide for the number of license tags available for the A, B, C, and D Zones. This regulatory proposal changes the number of tags for all existing zones to a series of ranges presented in

the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

<b>Deer: A, B, C, and D Zone Hunts Tag Allocations</b>		
<b>Zone</b>	<b>Current</b>	<b>Proposed</b>
A	65,000	30,000-65,000
B	55,500	35,000-65,000
C	11,000	8,000-20,000
D3-5	33,000	30,000-40,000
D-6	10,000	6,000-16,000
D-7	9,000	4,000-10,000
D-8	8,000	5,000-10,000
D-9	2,000	1,000-2,500
D-10	700	400-800
D-11	5,500	2,500-6,000
D-12	950	100-1,500
D-13	4,000	2,000-5,000
D-14	3,000	2,000-3,500
D-15	1,500	500-2,000
D-16	3,000	1,000-3,500
D-17	500	100-800
D-19	1,500	500-2,000

#### **Amend Subsection 360(b), Title 14, CCR, Re: Deer: X Zone Hunts**

Some minor editorial changes are necessary for consistency in subsection numbering, spelling, grammar, and clarification.

Existing regulations provide for the number of hunting tags for the X zones. The proposal changes the number of tags for all existing zones to a series of ranges presented in the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

Deer: § 360(b) X-Zone Hunts Tag Allocations		
Zone	Current	Proposed
X-1	2,555	1,000-6,000
X-2	120	50-500
X-3a	255	150-1,500
X-3b	850	200-3,000
X-4	420	100-1,500
X-5a	90	50-300
X-5b	125	50-800
X-6a	325	100-1,200
X-6b	330	100-1,200
X-7a	165	50-600
X-7b	105	10-200
X-8	430	100-750
X-9a	770	100-1,200
X-9b	300	100-600
X-9c	650	100-1,000
X-10	400	200-600
X-12	760	100-1,500

#### **Amend Subsection 360(c), Title 14, CCR, Re: Deer: Additional Hunts**

Existing regulations for Additional Hunt G-10 (Camp Pendleton Either-Sex Deer Hunt) provide for hunting on Saturdays and Sundays for ten consecutive weekends. In certain years, the ten weekend season concludes prior to the Thanksgiving Day holiday weekend due to calendar shifts, resulting in a reduction of hunter opportunity. In addition, certain federal holidays occur on weekdays when the base is normally closed and additional hunter opportunity is lost. The proposal would modify the season to specifically include: the Columbus Day and Veterans Day holidays, the day after Thanksgiving, and permit hunting to occur through the Sunday following Thanksgiving Day, therefore providing an increase in hunter opportunity as requested by the Base, while maintaining consistency with existing deer herd management plan recommendations.

Existing regulations for Additional Hunt G-13 (San Diego Antlerless Deer Hunt) provide for a sixteen day season beginning the fourth Saturday in October. The Department has received numerous requests from the local public to increase opportunity on this hunt by extending the season length. The proposal would add seven days to the end of the current season, therefore meeting a specific public demand for additional hunting opportunity, while maintaining consistency with existing deer herd management plan recommendations.

Existing regulations provide for a general deer hunting season, including area description, season, bag and possession limit, and number of tags for hunting deer during the general season in Zone X-9a (Section 360 (b)(13)(A-D), title 14, CCR). Deer residing in Zone X-9a are from two different herds, the Casa Diablo Deer Herd and the Round Valley Deer Herd (formerly Buttermilk and Sherwin Grade Deer Herds). These two herds differ drastically with regard to herd distribution and the proportion of bucks available during the general hunting season. This condition has resulted in a disproportionately higher hunter effort and increased buck harvest, and buck ratios below objectives on the Casa Diablo herd, while the converse exists on the Round Valley herd. The proposal creates a new additional hunt, G-39 (Round Valley Late Season Buck Hunt). The area description would be the same as those described for additional hunt J-12. The season would begin the fourth Saturday in October and continue for sixteen consecutive days. The bag and possession limit would be one buck, forked horn or better, per tag with a tag quota range of 5-150 tags. The creation of this hunt would meet an expressed public demand for additional late season buck hunting opportunity and be consistent with existing deer herd management plan recommendations by providing a more equitably distribution of hunter effort and buck harvest within the Zone X-9a deer herds.

Existing regulations provide deer hunting area descriptions, seasons, bag and possession limits, and number of tags for Zone C-4. The zone currently provides limited special junior deer hunting opportunity. The proposal creates a new additional hunt, J-21 (East Tehama Junior Either-Sex Deer Hunt). The area would include the Tehama County portion of Zone C-4. The season would begin the third Saturday in September (Zone C-4 opening) and continue 44 consecutive days (close with Hunt G-1). The bag and possession limit would be one, either-sex deer with a recommended tag quota range of 20-80 tags. Special conditions would be: junior license holders only may apply, and junior hunters must be accompanied by an adult chaperon, 18 years of age or older. This proposal would meet an expressed public demand for increasing hunting opportunity for young hunters, maintain appropriate harvest levels in the Zone C-4 deer herds, and be consistent with existing deer herd management plan recommendations.

Some minor editorial changes are necessary for consistency in subsection numbering, spelling, grammar, and clarification.

Existing regulations provide for the number of hunting tags for the additional hunts. The proposal changes the number of tags for existing hunts to a series of ranges presented in the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

Deer: § 360(c) Additional Hunts Tag Allocations					
Hunt	Current	Proposed	Hunt	Current	Proposed
G-1	3,500	500-5,000	M-11	20	20-200
G-3	25	5-50	MA-1	150	20-150
G-6	50	25-100	MA-3	150	20-150
G-7	20 Military *	20 Military *	J-1	25	10-25
G-8	30 Military * 30 Public	10-80 Military * and Public	J-3	15	15-30
G-9	15 Military * 15 Public	15 Military * 15 Public	J-4	15	15-50
G-10	300 Military *	100-480 Military *	J-7	15	10-30

Deer: § 360(c) Additional Hunts Tag Allocations					
Hunt	Current	Proposed	Hunt	Current	Proposed
G-11	500 Military * and DOD **	500 Military * and DOD **	J-8	15	10-20
G-12	30	25-75	J-9	5	5-10
G-13	300	50-300	J-10	10 Military * 30 Public	10-80 Military * and Public
G-19	35	10-65	J-11	40	10-50
G-21	25	25-100	J-12	10	10-20
G-37	25	25-50	J-13	40	25-100
G-38	300	50-300	J-14	30	15-75
G-39	New	5-150	J-15	10	5-30
M-3	60	20-75	J-16	75	10-75
M-4	5	5-50	J-17	25	5-25
M-5	10	5-50	J-18	75	10-75
M-6	80	25-100	J-19	25	10-40
M-7	150	50-150	J-20	20	5-20
M-8	10	5-75	J-21	New	20-80
M-9	5	5-100			

\* *Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs.*

\*\* *DOD = Department of Defense*

### **Amend Section 361 Title 14, CCR, Re: Archery Deer Hunting**

Existing regulations provide for an archery deer season in Zone A. Proposed changes (Item #1) in subsection 360(a)(1)(A-D) require the modification of existing archery hunting in Zone A in order to maintain consistency. The proposal modifies the area description and season and will maintain consistency with proposed changes (Item #1) identified in subsection 360(a)(1)(A-D), thus preventing confusion and possible violations.

Existing regulations provide for an archery deer season in all zones throughout the state, however the month was inadvertently omitted for Zone D-12 season description. The proposal would update the Zone D-12 archery season for clarification by specifying that the season beginning occur in October, thus eliminating any confusion and possible violations.

Existing regulations for Hunt A-1 (C Zones Archery Only Hunt) provide for three separate opening dates: the second Saturday in August in Zones C-2 and C-3, the third Saturday in August in Zone C-1, and the

last Saturday in August in Zone C-4. Archery deer hunting in the C Zones was consolidated under the Hunt A-1 tag in 2002 in order to simplify the regulations and give hunters additional opportunity to hunt throughout the C Zones. However, the consolidation into a common opening date was omitted. The proposal would modify the season beginning in Zones C-2, C-3 and C-4 to the third Saturday in August, thus aligning all C Zone opening dates. This would complete the simplification process which was initiated in 2002 and bring the opening date into conformance with the adjacent B, D and X Zone archery season opening dates.

Existing regulations for Area-Specific Archery Hunt A-22 provides for a split season, in which the second half reopens the first Saturday in December and extends through December 31. In 2002, the season was shortened from a season end date of January 31 to December 31. The purpose of this change was to account for administrative procedures and data collection associated with the preparation of the Environmental Document. This action resulted in a decrease in season length by approximately one month, which significantly reduced hunter opportunity. The proposal would add two weeks to the beginning of the second half of the season by reopening the season on the third Saturday in November, thereby meeting a specific public demand for increased hunter opportunity, consistent with the goals and recommendations within the individual deer herd management plans.

Some minor editorial changes are also necessary for consistency in subsection numbering, spelling, grammar, and clarification.

Existing regulations provide for the number of hunting tags for existing area-specific archery hunts. The proposal changes the number of tags for existing hunts to a series of ranges presented in the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

<b>Archery Deer Hunting: § 361</b>		
<b>Tag Allocations</b>		
<b>Hunt Number (and Title)</b>	<b>Current</b>	<b>Proposed</b>
A-1 (C Zone Archery Only Tag)	2,500	150-3,000
A-3 (Zone X-1 Archery)	240	50-1,000
A-4 (Zone X-2 Archery)	15	10-200
A-5 (Zone X-3a Archery)	20	10-300
A-6 (Zone X-3b Archery)	65	25-400
A-7 (Zone X-4 Archery)	75	25-400
A-8 (Zone X-5a Archery)	50	15-100
A-9 (Zone X-5b Archery)	15	10-100
A-11 (Zone X-6a Archery)	130	25-300
A-12 (Zone X-6b Archery)	75	25-200
A-13 (Zone X-7a Archery)	20	10-200
A-14 (Zone X-7b Archery)	15	10-100
A-15 (Zone X-8 Archery)	70	25-200
A-16 (Zone X-9a Archery)	195	50-750

<b>Archery Deer Hunting: § 361 Tag Allocations</b>		
<b>Hunt Number (and Title)</b>	<b>Current</b>	<b>Proposed</b>
A-17 (Zone X-9b Archery)	300	50-600
A-18 (Zone X-9c Archery)	350	50-500
A-19 (Zone X-10 Archery)	120	25-200
A-20 (Zone X-12 Archery)	190	25-500
A-21 (Anderson Flat Archery Buck Hunt)	25	25-100
A-22 (San Diego Archery Either-Sex Deer Hunt)	1,000	100-1,000
A-24 (Monterey Archery Either-Sex Deer Hunt)	100	25-200
A-25 (Lake Sonoma Archery Either-Sex Deer Hunt)	25	20-75
A-26 (Bass Hill Archery Buck Hunt)	25	10-100
A-27 (Devil's Garden Archery Buck Hunt)	5	5-75
A-30 (Covelo Archery Buck Hunt)	40	20-100
A-31 (Los Angeles Archery Either-Sex Deer Hunt)	1,000	200-2,000
A-32 (Ventura/Los Angeles Archery Late Season Either-Sex Deer Hunt)	250	50-300

**Amend Section 362 Title 14, CCR, Re: Nelson Bighorn Sheep**

Existing regulations provide for limited hunting of Nelson bighorn rams in six hunt zones. The proposed change adjusts the number of tags based on annual bighorn sheep population surveys conducted by the Department. The following proposed range of tag numbers was determined using the procedure described in Fish and Game Code Section 4902:

<b>HUNT ZONE</b>	<b>NUMBER OF TAGS</b>
Zone 1 - Marble Mountains	2-4
Zone 2 - Kelso Peak/Old Dad Mountains	2-4
Zone 3 - Clark/Kingston Mountain Ranges	0-2
Zone 4 - Orocopia Mountains	0-2
Zone 5 - San Geronio Wilderness	0-2
Zone 6 - Sheep Hole Mountains	0-2
Open Zone Fund-Raising Tags	0-2
<b>TOTAL</b>	<b>4-18</b>

The final number of tags allocated for each of the six hunt zones will be based on the results of the Department's 2003 estimate of the bighorn sheep population in each zone. Tags are proposed to be



allocated to allow the take of less than 15 percent of the mature rams estimated in each zone. While no tag quota is proposed for some hunting zones, those areas remain available for the hunter who purchases the Open Zone Fund-Raising Tag.

### **Amend Section 363 Title 14, CCR, Re: Pronghorn Antelope**

Existing regulations provide for the number of pronghorn antelope hunting tags for each hunt zone. This proposed regulatory action provides tag allocation ranges for most hunt zones, pending final tag quota determinations based on winter survey results expected by March of 2004. The final tag quotas will provide for adequate hunting opportunities while allowing for a biologically appropriate harvest of bucks and does in specific populations. The proposed tag allocation ranges are as set forth below.

§ 363 Pronghorn Antelope Proposed Tag Allocations - 2004						
Hunt Area	Archery-Only Season		General Season			
			Period 1		Period 2	
	Buck	Doe	Buck	Doe	Buck	Doe
Zone 1 – Mount Dome	1-10	0-3	3-60	0-20	0	0
Zone 2 – Clear Lake	1-10	0-3	20-80	0-25	0	0
Zone 3 – Likely Tables	2-20	0-7	25-150	0-50	25-130	0-50
Zone 4 – Lassen	2-20	0-7	25-150	0-50	25-150	0-50
Zone 5 – Big Valley	1-15	0-5	3-150	0-50	0	0
Zone 6 – Surprise Valley	1-10	0	3-25	0-7	0	0
Big Valley Junior Hunt	N/A		1-15 Either-Sex		0	
Lassen Junior Hunt	N/A		1-15 Either-Sex		0	
Surprise Valley Junior Hunt	N/A		1-4 Either-Sex		0	
Fund-Raising Hunt	N/A		1-10 Buck			

Existing regulations specify that the Ash Creek Junior Pronghorn Antelope Hunt occurs on land owned and managed by the Department of Fish and Game as the Ash Creek Wildlife Area, during the first four days of the general season for pronghorn antelope in Zone 5 – Big Valley. The proposal expands geographic boundaries beyond Ash Creek Wildlife Area to all of Zone 5 – Big Valley, extends the season to nine days to correspond with the general season for pronghorn antelope in Zone 5 – Big Valley, and renames the hunt as the Big Valley Junior Pronghorn Antelope Hunt to more accurately reflect the hunt area. Ash Creek Wildlife Area continues to be available exclusively for junior hunters.

Existing regulations specify that the Honey Lake Junior Pronghorn Antelope Hunt occurs within a portion of Lassen County (the Honey Lake Valley), and on land owned and managed by the Department of Fish and Game as the Fleming and Dakin units of Honey Lake Wildlife Area, during the first four days of the general season for pronghorn antelope in Zone 4 – Lassen. The proposal expands geographic

boundaries to all of Zone 4 – Lassen, extends the season to nine days to correspond with the Period One general season for pronghorn antelope in Zone 4 – Lassen, and renames the hunt as the Lassen Junior Pronghorn Antelope Hunt to more accurately reflect the hunt area. Honey Lake Wildlife Area continues to be available exclusively for junior hunters, on Saturdays and Sundays during the hunt season.

Existing regulations do not provide pronghorn antelope tags for Zone 6 – Surprise Valley exclusively for junior hunters. The proposed regulatory change establishes the Surprise Valley Junior Pronghorn Antelope Hunt, with boundaries and season dates coinciding with those of Zone 6 – Surprise Valley. With a range of 1-4 either-sex tags, the hunt will not adversely affect pronghorn populations or current hunt success rates within the zone. The proposed regulation change provides additional opportunity for junior hunters; currently the demand for junior pronghorn antelope tags proportionately exceeds demand for general season tags. The proposed junior hunt opens on the Saturday following the third Wednesday in August and continues for nine consecutive days.

Additionally, other minor editorial changes are also proposed for clarity and consistency of the regulations.

### **Amend Section 364 Title 14, CCR, Re: Elk**

Existing regulations specify elk license tag quotas for each hunt. It is necessary to adjust quotas periodically, in response to dynamic environmental and biological conditions. This proposed amendment makes the following specific changes in license tag quotas: Increase the quota for the Siskiyou Roosevelt Elk Hunt from 25 either-sex tags to 15 antlerless and 15 either-sex tags; Reduce the quota for the Klamath Roosevelt Elk Hunt from 15 antlerless and 15 bull tags to 10 antlerless and 10 bull tags; Reduce the archery only quota for the Northeastern California Rocky Mountain Elk Hunt from 7 either-sex to 5 either-sex tags; Reduce the archery only quota for the Owens Valley Tule Elk Hunt from 7 either-sex to 5 either-sex tags; Change the quota for the Fort Hunter Liggett Tule Elk Hunt from 20 antlerless and 14 bull tags to 40 antlerless tags (10 of them designated archery only), 6 either-sex tags (designated archery only) and 14 bull tags. Periodic quota changes are necessary to maintain hunting quality in accordance with management goals and objectives.

Existing regulations specify boundaries for the Siskiyou Roosevelt and Northeastern California Rocky Mountain Elk hunts. The proposed change expands the Siskiyou zone eastward and concomitantly reduces the Northeastern zone. Expansion of the Siskiyou zone is warranted; elk wintering in the Siskiyou hunt area often move across the existing boundary into the area proposed for inclusion within the Siskiyou zone. Adjustment of boundaries will improve hunting opportunities and facilitate increasing the quota for the Siskiyou hunt. The proposed amendment will have minimal effect on hunt opportunity within the Northeastern California zone because this zone is large and the greatest concentrations of elk occur within eastern portions that are unaffected by the boundary adjustment.

Existing regulations specify boundaries for the Big Lagoon Roosevelt Elk Hunt. Non-substantive changes are proposed to simplify and clarify the boundary description.

Existing regulations specify boundaries for the La Panza Tule Elk Hunt. The proposal expands the La Panza boundary, consistent with the natural range expansion of tule elk which has occurred since this hunt was established in 1993. The proposal is necessary to improve hunter opportunity and is consistent with management objectives for tule elk in the area.

Existing regulations make no provision for public tule elk hunting in the Owens Valley west of US Highway 395. The proposal will establish the West Tinemaha Zone on the west side of Highway 395 near Tinemaha Reservoir, and designates a total of 6 bull and 6 antlerless tags (designated archery only and evenly distributed among three hunt periods), valid for both the Tinemaha and West Tinemaha zones. Establishing a new tule elk hunt zone in the Owens Valley will provide additional elk hunting opportunities and is consistent with statewide management objectives for tule elk.

Existing regulations do not provide for public tule elk hunting in Colusa and Glenn counties near East Park Reservoir. The proposal will establish a new tule elk hunt in the vicinity of East Park Reservoir, with a total of two bull and two antlerless elk tags divided among three hunt periods in September. The proposal will provide additional elk hunting opportunities, consistent with the statewide management objectives for tule elk.

Existing regulations specify season dates for two hunt periods for the Fort Hunter Liggett Tule Elk Hunt. The proposed change will move the opening dates for Period One to the fourth Wednesday in November, and Period Two to the Wednesday after the second Saturday in December. Length of these hunt periods remains unchanged at 5 consecutive days. The proposal establishes season dates for Period Three, which will open on the last Wednesday in December and continue for 5 consecutive days. The proposal also establishes an Archery Only Season on weekends (Saturdays and Sundays) and the Labor Day Holiday in September. Significantly increasing the tag quota for the Fort Hunter Liggett Tule Elk Hunt requires modifying season dates for existing hunt periods, and establishing two additional hunt periods to meet hunter demand.

Minor editorial changes are proposed to improve clarity and consistency of the regulations. Specifically, the amendment updates the year to 2004, and makes other minor changes to reduce redundancy.

#### **Amend Section 365 Title 14, CCR, Re: Beer**

The existing regulations of subsection 365 (a)(5)(a-e), Title 14, California Code of Regulations) provide bear hunting areas, seasons, bag and possession limits, number of permits and special conditions, if any exist, for the Southeastern Sierra zone. Currently, according to Section 365(5) of the Fish and Game Code, bear hunting in the Southeastern Sierra zone is not allowed east of Highway 395. Hunters have expressed an interest in having the area east of Highway 395 in Mono county deer zones X-12 and X-9a added to the Southeastern Sierra bear hunt zone. In an effort to meet this specific demand for increased opportunity and expanded hunting area access, while assuring that bear harvest levels meet approved bear harvest objectives, the proposal incorporates these areas into the Southeastern Sierra area zone description.

The Department conducted a mail-in survey of deer hunters in zones X-12 and X-9a during the 2002 season. Within these two zones, hunters reported observing 159 individual adult bear, 30 individual bear cubs, and 18 reports of sign west of Highway 395. In comparison, to the east of Highway 395, hunter observations included 93 individual adult bear, 28 individual bear cubs, and 75 reports of bear sign. Although these do not reflect actual numbers of bears in the two areas, they do indicate that bear populations on the east and west side of Highway 395 are quite similar in terms of relative abundance.

#### **Amend Sections 465, 465.5, 467, 475 and 478; and Add Sections 458.1, 459, 459.1, 459.2, 465.6 and 468, Title 14, CCR, Re: Trapping Furbearers and Nongame Mammals**

Under current regulations (Sections 460, 461, 462, 463, 464, 465, 465.5, 466, 467, 472, 473, 474, 475, 478, 478.1, and 479 Title 14, CCR), furbearing and nongame mammals may be taken for recreation and commerce in fur and for other purposes under a Department-issued trapping license, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify furbearing and nongame mammal seasons, areas, bag, and possession limits of take; methods of take; use of traps; hours of take; and requirements for trapping statements or reports.

The proposed regulatory changes will establish separate licensing, trap use, and annual reporting requirements for two separate groups of trappers: 1) Those that trap for purposes of recreation or commerce in fur; and 2) Those that trap for purposes other than for recreation or commerce in fur (nuisance wildlife control operator (NWCO) industry providing trapping services for profit). The following is a summary of the changes proposed by amending sections 465, 465.5, 467, 475, and 478, and adding sections 458.1, 459, 459.1, 459.2, 465.6, and 468, Title 14, CCR:

- establish a separate section regarding leg-hold trap use, requirements, specifications, exceptions and restrictions;
- require those that trap for purposes of recreation or commerce in fur procure a Class 1 Trapping License;
- require those that trap for purposes other than for recreation or commerce in fur (nuisance wildlife control operator (NWCO) industry providing trapping services for profit) procure a Class 2 Trapping License;
- require holders of both class 1 and class 2 trapping licenses to provide annual trapping statements or reports accounting for total furbearing or nongame mammals taken;
- authorize trap use by Class 1 Licensees according to the following:
  - traps are defined to include cage and box traps, nets, suitcase-type live beaver traps, and common rat and mouse traps and other devices designed to confine animals;
  - language is added that specifically exempts common rat and mouse traps from the trap number requirement, and;
  - use of captive bolt is added to shooting as a means of dispatch;
- authorize trap use by Class 2 Licensees according to the following:
  - traps are defined to include Conibear-type traps, snares, dead-falls, cage traps and other devices designed to confine, hold, grasp, grip, clamp or crush animals' bodies or body parts;
  - nuisance wildlife is defined as affected mammals trapped in towns or cities or removed from atop, within, or under buildings or structures or otherwise taken or trapped because of injury to property;
  - affected mammals are specifically defined to include: badger, beaver, gray fox, mink, muskrat, raccoon, bobcat, coyote, opossum, spotted skunk, striped skunk, long-tailed weasel, short-tailed weasel, and bats;
  - make it unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or to offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined by Section 4005 of the Fish and Game Code, of any furbearing mammal or nongame mammal that was trapped in this state by a person providing trapping services for profit;
  - require traps to be numbered and add language that specifically exempts common rat and mouse traps;
  - authorize the design, specifications, placement, and use of Conibear-type traps, snares, cage and box traps, nets, suitcase-type live beaver traps and common rat and mouse traps;
  - require that all trapped furbearers and nongame mammals be immediately killed or released, with some exceptions. Unless released, trapped animals shall be killed by:
    - shooting or captive bolt;
    - carbon dioxide;
    - any method of euthanasia approved by the American Veterinary Medical Association's guidelines under Appendix 2 – "Acceptable Agents and Methods of Euthanasia by species;"
  - require traps to be visited at least once daily by the owner of the traps or his/her designee carrying written authorization. All trapped animals shall be removed each time traps are checked;
  - prohibit Conibear-type trap with a jaw spread greater than five inches (5") from being used in any dryland set. When a Conibear-type trap is used in a dry-land application, it may only be set as a "cubby-type" set to exclude non target mammals or in a burrow if recessed six inches (6") within the burrow to reduce non-target catches;
  - Conibear-type traps with jaw openings larger than 5" X 5" may only be used in sets where the trap is wholly or partially submerged in water. When trapping beaver with Conibear-type traps, the trap shall have extra clamping bars or an equivalent thereof;
  - all snares shall be set in sites cleared of brush or objects that could cause entanglement within the radius of the set device. It shall be unlawful to set or maintain a cable restraining and or snare within 30 feet of bait placed in a manner or position so that it

- may be seen by any soaring bird. As used in this subdivision, "bait" includes any bait composed of mammal, bird, or fish flesh, fur, hide, entrails, or feathers;
- snare cables shall be constructed of steel, galvanized steel, or stainless steel with diameters not less than 3/32 inch;
    - when spring mechanisms are used in conjunction with foot-snare design, the mechanism shall include a pan tension device such that non-target animals will not be captured in the snare;
    - except as provided below, only those non-lethal neck snares, such as the Collarum Canine Restraining Device, or neck snares consisting of properly installed end swivels, stops and breakaway locks may be used when attempting to capture coyotes or foxes. Any other neck snare set for this purpose and not conforming to this standard shall be considered an illegal set;
    - when trapping coyotes with neck snares, a lock shall be placed to prevent the cable from tightening down less than eleven inches (11") in circumference around the trapped animal;
    - when trapping foxes with neck snares, a lock shall be placed to prevent the cable from tightening down less than eight inches (8") in circumference around the trapped animal;
    - lethal neck snares may be used to take beaver and muskrats provided the snares have at least one-half the snare loop submerged in water;
    - breakaway locks are not required on lethal neck snares set for beaver;
  - prohibit the use of Conibear-type traps, snares, except those totally submerged, and deadfall traps in areas identified by the U. S. Geological Survey 7.5 Minute Quadrangle Map System to protect Sierra Nevada red fox and San Joaquin kit fox;
  - establish penalties for violation of provisions that includes fines ranging from three hundred dollars (\$300) to two thousand dollars (\$2,000), imprisonment in the county jail for not more than one year, or both that fine and imprisonment;
  - establish conditions of confinement, transportation, and release of nuisance wildlife with progeny;
  - allow up to two hours that nuisance wildlife without progeny may be transported before being euthanized;
  - in circumstances when the progeny of nuisance wildlife is not present and release is not an option, class 2 licensees must euthanize nuisance wildlife within two hours after leaving the affected property;
  - prohibit the relocation of nuisance wildlife without Department of Fish and Game authorization;
  - establish additional conditions for relocating nuisance wildlife, and;
  - prohibit bats from being trapped.

**Amend Section 601, Title 14, CCR,  
Re: Enhancement and Management of Fish and Wildlife and their Habitat on Private Lands**

Existing regulation in subsection 601(b)(1) describes the application procedure and required elements for an Initial Application. Procedures and required elements for 5 Year Renewal and Annual Renewal Applications are not identified. Additionally, species-specific Department policies regarding the operation of Private Land Management (PLM)'s are not identified on the existing application forms. The proposed regulatory action identifies each application form with an approved Department form number. Each application form identifies procedures and required elements to process the application as well as applicable species-specific Department policies for PLM operations.

Existing regulation in subsection 601 (a)(6) requires full payment of tag/seal fees by March 1. Renewal applicants that do not meet this requirement are placed on COD status, requiring payment of fees for tags/seals at time of delivery. Cash on Delivery (COD) [License Agent] account require additional staff time to monitor and maintain. The proposed regulatory action establishes a 10% late payment fee if tags

are not paid for by the March 1 date. Late payment fees will be used to defray Department costs associated with establishing and maintaining COD accounts.

This proposed amendment also includes minor editorial changes to correct errors, improve clarity, and reduce redundancy. Specifically, subsection 601(a) is modified to identify the Fish and Game Commission as the licensing authority for PLM areas, not the department as currently described. Subsection 601(b)(4) is modified to reflect that an application fee is for the purpose of reviewing management plans prior to department approval, and that payment of the fee does not constitute acceptance into the program.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the City Council Chambers, City Hall, 777 Cypress Avenue, Redding, CA, on March 5, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. Written comments may also be submitted to the Fish and Game Commission office at the address given below.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Resources Building Auditorium, 1416 Ninth Street, Sacramento, CA, on April 2, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested that all written comments be submitted on or before April 6, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov). All correspondence, including E-mail, must include the true name and mailing address of the commenter.

**NOTICE IS FURTHER GIVEN** that any person interested may be present at a hearing relevant to this action to be held at a teleconference meeting in the Resources Building Room 1320 Conference Room, 1416 Ninth Street, Sacramento, CA, on April 22, 2004, at 10:00 a.m., to consider adoption of the proposed Mammal Hunting and Trapping Regulations for the 2004 - 2007 seasons. Additional testimony on the proposed regulations may be received if substantive changes result from the April 2, 2004 meeting or if regulatory alternatives are under consideration.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing January 30, 2004. Oral or written comments relevant to these documents will be received at the March 5, 2004, meeting in Redding. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., March 16, 2004. Draft environmental documents are available for review at the Commission office and at the Department of Fish and Game's headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Chino and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON MARCH 16, 2004.** The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Jon Snellstrom at the preceding phone number. John Carlson, (916) 445-3555, Branch Chief, Wildlife Programs Branch, has been designated to respond to questions on the substance of the proposed regulations. Copies of the initial statement of reason, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### **Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public

recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

### **Impact of Regulatory Action**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

#### **Section 251, Use of Aircraft to Take Game**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This regulation centers around a particular method of pursuit of big game but does not affect the basic ability to hunt big game.

#### **Section 353, Methods Authorized for Taking Big Game**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Because the proposed change clarifies the regulation, it is economically neutral.

#### **Section 354, Archery Equipment and Crossbow Regulations**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Because the proposed change clarifies the regulation, it is economically neutral.

#### **Subsection 360(a), Deer: A, B, C, and D Zone Hunts**

The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

#### **Subsection 360(b), Deer: X-Zone Hunts**

The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

#### **Subsection 360(c), Deer: Additional Hunts**

The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

#### **Section 361, Archery Deer Hunting**

The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action adjusts tag

quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

**Section 362, Nelson Bighorn Sheep**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Because the proposed change clarifies the regulation, it is economically neutral.

**Section 363, Pronghorn Antelope**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**Section 364, Elk**

The agency is not aware of cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action adjusts tag quotas for existing hunts, adjusts hunt boundaries, and establishes new hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

**Section 365, Bear**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Because the proposed change clarifies the regulation, it is economically neutral.

**Sections 458.1, 459, 459.1, 459.2, 465, 465.5, 465.6, 467, 475 and 478, Trapping Furbearers and Nongame Mammals**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Although each applicant will incur a nominal cost for license fee, this impact will be minor given the lucrative profit potential generated by this business statewide.

**Section 601, Enhancement and Management of Fish and Wildlife and their Habitat on Private Lands**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action provides pertinent information regarding Private Lands Wildlife Habitat Enhancement and Management (PLM) operations on the application form, establishes a 10% late fee for the payment of tags/seals to account for additional Department costs in tracking Cash on Delivery (COD) license agents accounts, and makes minor editorial changes. Given the nature of the changes, the number of tags available, and the area over which they are distributed, these proposals are economically neutral to business.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.



- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: February 9, 2004

Robert R. Treanor  
Executive Director